

Final 2020 IRS Forms 1094/1095 Published

On October 16, 2020, the Internal Revenue Service (IRS) published the final versions of Forms 1094/1095-B and 1094/1095-C (collectively, the “Forms”) along with instructions for completing them to report information about employer-sponsored health coverage for the 2020 calendar year.

Who Must File and Furnish Which Forms?

The Forms serve two separate, but related Affordable Care Act purposes.

- Offer of Coverage Reporting – Part II of the Form 1095-C indicates whether an Applicable Large Employer (ALE) offered affordable, minimum value coverage to its full-time (FT) employees, their spouses, and/or dependent children. Among other items, the Form 1094-C indicates whether an ALE offered coverage to at least 95% of its FT employees.

For 2020, an ALE is an employer that averaged 50 or more FT employees – including full-time equivalent employees – during 2019. An employer formed in 2020 is also an ALE if it reasonably expects to employ and actually does employ an average of 50 or more FT employees during 2020.¹

- Minimum Essential Coverage Enrollment Reporting – “Issuers of coverage” are required to report coverage information for enrolled individuals. Self-insured plans are “issuers of coverage,” so there is an individual mandate reporting obligation for self-insured plan sponsors/employers, regardless of size. Both sets of Forms address individual mandate reporting.

COVID-19 Caution: Furloughs or other reductions in force during 2020 do not affect an employer’s reporting obligations this year but may affect whether an employer is an ALE for 2021.

The reporting obligations depend upon: (i) ALE or non-ALE status; and (ii) whether coverage is fully insured or self-insured:

Plan Type	Form 1095-C Parts I and II	Form 1095-C Part III	Form 1095-B Employer	Form 1095-B Carrier
Non-ALE Fully Insured	No	No	No	Yes ²
Non-ALE Self-Insured	No	No	Yes ²	No
ALE Fully Insured	Yes	No	No	Yes ²
ALE Self-Insured	Yes	Yes	No	No

¹ In other words, new employers may begin operations as ALEs. An employer acquired by an ALE also becomes an ALE on the acquisition date.

² Please see our [earlier Alert](#) addressing delivery relief for Form 1095-B to covered individuals. The relief does not apply for reporting to the IRS.

Small employers (or “non-ALEs”) that do not offer medical coverage or offer fully insured medical coverage have no reporting obligation. As a reminder, employers who are required to report must file Forms 1094 and 1095 with the IRS and provide individuals with a duplicate Form 1095-B or C, as applicable, containing their personalized information.

Relief and Filing Deadlines

In an [earlier Alert](#), we indicated the deadline for providing Forms 1095 to individuals is extended until March 2, 2021 (originally due January 31st). The filing deadline for reporting Forms 1094/1095 to the IRS is unchanged. IRS reporting is due by February 28, 2021 for paper filers or March 31, 2021 for electronic filers. Electronic filing is mandatory if reporting 250 or more Forms.

The Form instructions restate the availability of relief from penalties for reporting incorrect or incomplete information on the Forms 1095-B or 1095-C for good faith reporting efforts.

Changes to the 2020 Form 1095-C

Part II of Form 1095-C has changed a bit, although most of the changes apply only to ALEs who offered an Individual Coverage Health Reimbursement Arrangement (ICHRA) to one or more FT employees during 2020.

Plan Start Month

Employers must enter a two-digit number to indicate the month that its plan year begins. For example, if the employer has a calendar year plan, the ALE would enter “01” in this space. This has been an optional field for several years. For 2020, it is mandatory for all ALEs.

ICHRA Revisions

As of January 1, 2020, ALEs have been able to use an ICHRA to satisfy the employer shared responsibility obligations (see our previous [ICHRA Alert](#) for details). The 2020 Form 1095-C enables reporting ICHRA coverage and includes data fields for the employee’s age and relevant zip code, which are relevant for the specific ICHRA affordability safe harbor calculation.

Employee’s Age on January 1st – This is new. If the ALE offered ICHRA coverage to the employee, the employer must enter the employee’s age as of January 1, 2020. The instructions note that this may not actually be the relevant month for ICHRA affordability calculation purposes if the employer offers a non-calendar year ICHRA or if the employee is hired and eligible mid-year, but neither the form nor the instructions provide for entering the employee’s age as of the 1st of a different month.

This is a non-issue if the employee enrolls in the ICHRA, and the ALE is still able to use an affordability safe harbor based on the employee’s relevant age at the beginning of the non-calendar ICHRA plan year or at mid-year enrollment for employees who waived coverage.

- Line 14 Offer of Coverage – There are eight (8!) new “1” codes to reflect offers of ICHRA coverage. Interestingly, there are also seven new codes marked “reserved for future use.” The large number of

new ICHRA codes address whether the ICHRA is employee-only or if increased amounts are available for purchasing coverage for family members, which ICHRA affordability calculation safe harbor an employer is relying upon, or that the ICHRA did not qualify as affordable coverage.

- Line 17 Zip Code – This is new. The ICHRA affordability calculation safe harbors allow an employer to use either the zip code of the employee’s primary worksite or residence when benchmarking affordability. The ALE must enter the relevant zip code in Line 17.

Line 16: The “2” codes for Line 16 (Section 4980H safe harbors and other relief) are unchanged.

Changes to the 2020 Form 1095-B

The actual Form 1095-B is unchanged. For Part I, Line 8, a new code “G” indicates that the enrolled coverage reported on Form 1095-B is ICHRA coverage.

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